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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,209	09/24/2003	Hiroshi Hasegawa	243209US2SRD	1604
22850 7590 06/04/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ANGEBRANDT, MARTIN J	
			ART UNIT 1756	PAPER NUMBER
			NOTIFICATION DATE 06/04/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/668,209	Applicant(s) HASEGAWA, HIROSHI	
	Examiner Martin J. Angebrannt	Art Unit 1756	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

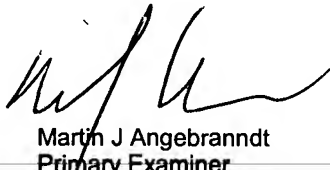
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 2-11, 13 and 14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


Martin J. Angebrannt
Primary Examiner
Art Unit: 1756

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the limitations of claims 6 and 7 discussed in the office action. There are three possible regions, areas with only embossed information (read only, no recording layer), test areas, which include a recording layer and are used to evaluate the performance of that optical recording disk, but do not have user data written in them and recording areas (where the user data is recorded). The examiner suggested that to make claims 6 and 7 self consistent,, the applicant insert - -user- - before "recordable zone" and replace "non-recordable zone" with - -non user recordable zone - - . "Non recording" strongly implies read only. In claims 6, the applicant should either insert -- the -- before "invalid information to address the antecedent basis issue raised by the examiner and to make it clear that it refers to the previously introduced "invalid data" as asserted by the applicant. The applicant's representative fails to appreciate that "dummy areas" include would include dummy or invalid data and the guard zone are and the dummy areas don not include user data, but as discussed may include a testing area, which would be grooved to be similar to the user recordable areas. In the case of Ohsawa et al. both layers can have areas where the user cannot store data as illustrated in the references and be within the scope of the coverage sought. This embodiment is shown in figure 3b of the instant application. The applicant does have the embodiments of figures 3a and 3c, where only one of the recording layers has the test/read only areas. In Ohsawa et al. '550, these are shown not to be coextensive. Further Yamamoto et al teaches differently sized pre-format areas similar to figure 3b of the instant application and Muramatsu et al. describes the conventional layout of the preformat and guard regions.. While a figure is not shown for the teachings of Ohsawa et al. '781, the teachings that all of the pit/address and testing areas can be in only one of the layers (the deepest) renders the medium illustrated in figure 4 obvious when combined with the other references detailing the conventional layout of the guard/lead in areas. The applicant's response fails to appreciate the examiner's position that while the applicant has raised certain issues, the claims are not fully commensurate with the argued position. Further as the invalid data does not interact with the computer in any meaningful way, the applicant has not why this is merely a design choice, but serves to distinguish the claims from the prior art in an unobvious manner and/or result in an unobvious benefit. The rejections in paragraphs 12 and 13 clearly should have used the 103 header and combined the primary reference with Ogawa et al. EP 1176586 or Muramatsu et al. '548. The rejections stand. .

W
5/24/02